THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2690 OF 2006

Dated: 14-02-2006

Between

Dasari Achutha Lakshmi,

W/o. D. Srinivasa Rao,

R/o. H.No.2-3-529/1/A/19,

Bapu Nagar, Amberpet

Hyderabad and another.

...PETITIONERS

AND

Uppal Municipality, rep. by its

Commissioenr, Uppal, Ranga

Reddy District and others.

...RESPONDENTS

ORDER:

The grievance of the petitioners is about the respondents not considering their applications for construction of houses in respect of the Plot Nos.15 and 16 of the first petitioner and Plot Nos.17 and 18 of the second petitioner which are in part of Survey No.44 of Ramanthapur Village, Uppal Mandal, Ranga Reddy District, on the ground that the same fall within the full tank level of Peddacheruvu Tank of Uppal Mandal, Ramanthapur, though they were issued certificates earlier that their plots are out side the tank area.

The contention of Sri Vedula Venkata Ramana, learned counsel for the petitioners is that since Plot Nos.15, 16,17 and 18 are private patta lands and are not acquired by the Government to keep them as reserve area for full tank level of Ramanthapur Tank till now, to make the said lands also a part of the tank, petitioners has a right to construct houses therein as per the building rules and bylaws and regulations framed under the Municipalities Act. He stated that the petitioners undertake not to claim the value of the building to be constructed by them, in case, the respondents were to take a decision to acquire the lands of the petitioners as reserve land for full tank level area of Peddacheruvu, and would claim compensation only for the land, respondents cannot have an objection for the petitioners constructing the buildings in their own lands that too when the plots that are falling in his full tank level are not yet finalized.

The contention of the learned Standing counsel for the first respondent is that when notice under Section 228(1) and (2) of the Municipality Act was issued to the petitioners while proceeding with unauthorized constructions, petitioners filed WP.No.16397 of 2004 and that petition was disposed of with some directions to the petitioner, but they did not comply with those directions and so they are not entitled to any relief, because it would be hazardous for the petitioners and their families to build a house in an area, which falls within the full tank level.

If the petitioners are making any unauthorized constructions, respondents are always at liberty to deal with them as per law. So the petitioners proceeding with construction without permission cannot be an impediment for deciding this petition.

Since the petitioners undertake that they would construct the buildings as per the building rules etc., at their own risk and would not claim any compensation for the building in the event of the respondents initiating proceedings for acquiring land for preserving the full tank level and since the lands of the petitioners, presently, is out side the tank area, there can be no impediment for the respondents processing the applications of the petitioners keeping in view the said undertaking.

Therefore, the writ petition is disposed of with a direction to the first respondent to consider

the applications of the petitioners and see whether they are in accordance with the provisions of the

A.P. Municipalities Act and the buildings rules and regulations, and master plan etc., of the Urban Development Authorities and if all the requirements are satisfied, not reject the same merely on the basis that they fall within the full tank level of Peddacheruvu, and consider the same subject to the undertaking given by the petitioners that they are undertaking the construction at their own risk and would not claim compensation for the building, or for the other eventualities in case of risk or acquisition, for preserving the land for full tank level.

The writ petition is disposed of accordingly. No costs.

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V. ESWARAIAH, J

February 14, 2006

DSK